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09/556,157	04/21/2000	Thomas Leoutsakos	TL-1	6306

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EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/556,157

Applicant(s)

LEOUTSAKOS, THOMAS

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16, 18-20 and 31-36 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 21-27 is/are rejected.
- 7) ☒ Claim(s) 4 and 28-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy '910. Murphy '910 shows the claimed limitations of an apparatus for supporting a body part, comprising: a rest member (37, 65) for the body part; an expandable member (42) associated with the rest member; and means for expanding (16) the expandable member upwardly and forwardly at an angle with respect to a base of the expandable member, with the body part on the rest member (as described in column 3, lines 21-26 and in column 4, lines 22-30). As concerns claim 2, the reference discloses the use of an auxiliary surface (12, 12a) associated therewith. With regards to claim 5, the reference is considered to show a condition wherein the rest member (37, 65) is a platform (see Figures 2 & 3) that is supported by a tubular member (as shown in Figures 2 & 4). As concerns claim 9, the reference discloses a condition wherein the means for expanding (26) includes means for inflating the expandable member (as described in column 2, lines 32-33) and further including a safety guard (72, 72a) therefor. With regards to claim 10, the reference is considered to show a condition wherein the means for inflating comprises a compressor (as described in column 2, lines 32-33 and in column 4, lines 22-25).

Art Unit: 3673

3. Claims 1-3, 5 and 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox '328. Cox '328 shows the claimed limitations of an apparatus (1) for supporting a body part, comprising: a rest member (64) for the body part; an expandable member (26, 26A) associated with the rest member; and means for expanding (100, 100A, 105, 105A, 106, & 106A) the expandable member upwardly and forwardly at an angle with respect to a base of the expandable member, with the body part on the rest member (as described in column 2, lines 18-22 and in column 5, lines 44-56). As concerns claim 2, the reference discloses the use of an auxiliary surface (2) associated therewith. As concerns claim 3, the reference is considered to show a condition wherein the body part is a foot positioned on the rest member in the non-expanded position of the expandable member in Figure 1. With regards to claim 5, the reference is considered to show a condition wherein the rest member (64) is a platform that is supported by a tubular member (see Figures 1, 2, 4, & 8).

As concerns claim 21, the reference shows the claimed limitations of a system for assisting a person to have a lower limb adopt a reclined position from a sitting position (as described in column 1, lines 41-45), comprising a surface (2) upon which the person is to be seated; and means for elevating (26, 26A) the lower limb of the person to a level permitting the transfer of the lower limb to a reclined position on the surface (as described in column 7, lines 8-20 and as shown in Figure 1). As concerns claims 22 and 23, the reference is considered to show conditions wherein the surface comprises a bed (2) and wherein the bed includes a mattress in Figure 1 and in column 2, lines 59-60. With regards to claim 24, the reference discloses a condition wherein the means for transferring is positioned on a floor-based (5, 6) platform (33, 64) (see Figures 1 & 8). As concerns claim 25, the reference is considered to show a support

Art Unit: 3673

(66) for the lower limb in Figure 1. With regards to claims 26 and 27, the reference discloses the use of means for continuously elevating (26, 26A) the support (66) with respect to the platform (33, 64), wherein the means for elevating also permits the transfer of the lower limb to the surface (2) (as shown in Figure 1).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Stewart et al. '188. Stewart et al. '188 shows the claimed limitations of an apparatus for supporting a body part, comprising: a rest member for the body part (14); an expandable member (16, 20) associated with the rest member; and means for expanding (18, 19) the expandable member upwardly and forwardly at an angle with respect to a base of the expandable member (as described in column 3, lines 61-64 and as shown in Figures 1 & 2) with the body part on the rest member (as noted in column 3, lines 45-47). As concerns claim 2, the reference discloses the use of an auxiliary surface (the chair as described in column 2, lines 58-60 and as shown in Figure 1) associated therewith. With regards to claim 5, the reference is considered to show a condition wherein the rest member (14) is a platform that is supported by a tubular member in Figures 1-4 and in column 3, lines 13-16. As concerns claim 7, the reference is considered to show a condition wherein the expandable member (16, 20) is selected from the class consisting of

Art Unit: 3673

externally reinforced bellows *and scissors mechanisms* in Figures 1-4 and in column 2, lines 65-66.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy '910 in view of Johnson '070. Murphy '910 does not specifically disclose a condition wherein the platform is configured to the body part when the rest member is in the non-expanded position of the expandable member. Johnson '070 provides the basic teaching of an apparatus (C) for supporting a body part which is configured to the body part. The skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Murphy '910 with a platform configured to the body part when the rest member is in the non-expanded position of the expandable member in order to provide enhanced user comfort and support.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. '188 in view of Murphy '910. Stewart et al. '188 do not specifically disclose a condition wherein the expandable member is *adhered* to a portion of the platform. Murphy '910 provides the basic teaching of a support apparatus (10) comprising an expandable member (42) adhered to a platform (37) (see column 3, lines 10-20). The skilled artisan would have found it obvious at the

Art Unit: 3673

time the invention was made to provide the apparatus of Stewart et al. '188 with an expandable member adhered to a portion of the platform in order to ensure further that the expandable member is secured in proper position relative to the platform.

### ***Response to Amendment***

In response to Applicant's arguments on pages 6 and 7 of his amendment regarding claims 1 and 16, 37 CFR § 1.111(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the references. However, the examiner respectfully agrees with Applicant's arguments on page 7 of his amendment concerning claims 11-20 and 31-36; hence, the previous prior art rejections of claims 1-16, 18-20, and 31-35 have been respectfully withdrawn.

### ***Allowable Subject Matter***

9. Claims 4 and 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 11-16, 18-20, and 31-36 are allowed. The examiner respectfully agrees with Applicant's arguments on pages 7 and 8 of his amendment stating that none of the prior art,

Art Unit: 3673

taken either singly or in combination, is seen to teach or suggest the particular method steps recited in claims 11, 31 and 36 in combination with a bellows structure, or the method steps as recited in claim 16 in combination with a tubular member pivotally attached to the platform.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murphy et al. '550.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

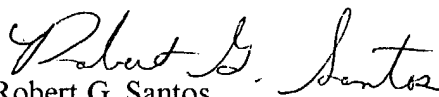
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..



Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
June 25, 2004